

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 20-1297V

ERICA NESTERUK,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: February 11, 2021

SCHEDULING ORDER-SPECIAL PROCESSING UNIT

On February 8, 2021, Respondent filed a status report indicating that, based on counsel's review of the records, no legal or factual issues that require additional support or further factual development have been identified in this case. ECF No. 14.

Accordingly, Petitioner shall proceed with preparing a demand for Respondent's consideration if she has not already done so. I understand that Respondent cannot provide a response to this demand until he has formulated his position.¹ However, the parties should strive to be in a position to immediately discuss damages once Respondent indicates he is amenable to consideration of Petitioner's demand after Respondent's review is complete. In addition, it is sensible for Petitioner to calculate her likely damages as quickly as possible in any case pending in SPU.

The parties shall therefore adhere to the following schedule:

- **Petitioner shall file, by no later than Monday, April 12, 2021, a status report providing the following information:**
 - Whether a demand has been provided to Respondent's counsel;
 - Petitioner's current treatment status and condition;
 - Whether all updated medical records have been filed; and
 - A list of each component of damages allegedly suffered by Petitioner.
- **Respondent shall file, by no later than Wednesday, May 12, 2021, a status report indicating how he intends to proceed in this case. At a**

¹ If Respondent's position on this case remains undetermined subsequent to the provision of a demand by Petitioner's counsel, I will nonetheless direct Respondent's counsel to provide Respondent with a copy of the demand and to file a Status Report confirming provision of Petitioner's demand to Respondent.

minimum, the status report shall indicate whether he is willing to engage in tentative discussions regarding settlement or proffer, is opposed to negotiating at this time, or that the Secretary has not yet determined his position. In the event Respondent wishes to file a Rule 4(c) report, he may propose a date for filing it, but shall indicate his position on entering into negotiations regardless.

Any questions about this order or about this case generally may be directed to OSM staff attorney **Patrick Rodefeld at (202) 357-6370 or Patrick_Rodefeld@cfc.uscourts.gov.**

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master